



## PERKINS COIE LLP

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October 15, 1998

## BY FAX AND HAND DELIVERY

Ms. Jennifer Boyt
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

**Re:** MUR 4803

Dear Ms. Boyt:

On behalf of the John Tierney for Congress Committee and Roy F. Gelineau, Jr., Treasurer, I write in response to the Complaint filed by Marc DeCourcey, Executive Director of the Massachusetts Republican Party.

The complaint alleges a violation of 11 CFR § 116.2(c)(2), a relatively recent regulation which prohibits a committee with net debts outstanding from transferring funds to another authorized committee of the same candidate. In its Explanation and Justification for the new 11 CFR part 116, the Federal Election Commission recognized "that many candidates form a new principal campaign committee for each election cycle rather than simply rolling over their previous committee. Thus a series of principal campaign committees is in many respects equivalent to an ongoing committee." 55 Fed. Reg. 26378 (June 27, 1990). Section 116.2(c)(2) of the regulations was intended to prevent impermissible corporate contributions through repeated and "substantial extensions of credit from the same incorporated vendors" which had given credit to the candidate's previous committee and to "prevent principal campaign committees from settling debts in situations where the candidate has another campaign committee capable of paying the amount owed." Id.

The Tierney Committees have not received "substantial extensions of credit from the same incorporated vendors," nor is the candidate attempting to avoid his debts. It is interesting that despite the complainant's professed concern with the Committees' debts, he conveniently omits to provide any detail on the nature of those obligations. To do so would reveal the triviality of the complaint.

[00000-0000/DA982880.047]

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In fact, the only substantial debtor of the 1996 Committee is John Tierney himself, who is owed \$82,000 of the \$98,060.31 in debt (see Attachment). The only other debtors are an unincorporated campaign consultant, Goldman Associates (\$15,000), and a hotel (\$1,060.31). Both of these campaign vendors have ongoing business relationships with the candidate and have extended credit in the ordinary course of their businesses on substantially similar terms to that offered to their other customers. Both the candidate and the debtors anticipate that all debts of the 1996 Committee will be paid in full. Given that the candidate himself is the principal debtor, it is not credible to suggest that funds were transferred to the 1998 Committee for the purpose of avoiding payment of the 1996 Committee's debts.

In Advisory Opinion 1997-10, the Commission was confronted with a similar situation. The 1992 campaign committee of former Congressman Martin Hoke transferred funds to his 1996 Committee, despite an outstanding debt in the 1992 Committee, consisting substantially of a debt to Mr. Hoke. Both the Committee and the candidate acknowledged that the transfer violated 11 CFR § 116.2(c)(2), yet no penalty appears to have been imposed. Similarly, in this case, respondents ask that no penalty be imposed.

Respondents have always made every effort to insure that all of their activities are in full compliance with both the letter and the spirit of the law. There was no intent to deceive or conceal any of the Committee's activities; all were fully disclosed on the public record. Indeed, the public reports filed by respondents were the source of the complainant's information. To the extent any mistakes were made, they were technical in nature, and do not defeat the purpose of the regulations.

For the reasons stated above, we respectfully urge that the complaint be dismissed.

Very truly yours,

Judith L. Corley

Ellen L. Weintraub

**Counsel for Respondents** 

Ellen L. Weintraul





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TO REPORTS INDEX NEW SEARCH NEW ADVANCED SEARCH

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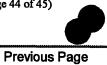


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